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STATE WATER RESOURCES CONTROL BOARD RESOLUTION NO. 2018-

ADOPT A REVISED DELEGATION OF AUTHORITY TO THE DELTA WATERMASTER

WHEREAS:

1. Pursuant to Water Code section 85230 subdivision (a), the State Water Resources Control Board (Board) appoints a special master for the Delta, whose title is “the Delta Watermaster.”
2. Pursuant to Water Code section 7, the Board is empowered to delegate authority to authorized persons.
3. Water Code section 85230 subdivision (b) provides that the Delta Watermaster shall exercise specified delegated authorities.
4. Water Code Section 85230 subdivision (b) states that the Delta Watermaster’s authority shall be limited to diversions in the Delta, and for the monitoring and enforcement of Board orders and license and permit terms and conditions that apply to conditions in the Delta.
5. Water Code section 85230 subdivision (c) provides that the Board may delegate additional duties to the Delta Watermaster as necessary for effective day-to-day enforcement of its decisions.
6. Water Code section 1051 authorizes the Board to investigate streams, lakes, and other bodies of water.
7. Government Code section 11415.50 states that an adjudicative proceeding is not required for informal fact-finding, an informal investigatory hearing, or a decision to initiate or not initiate an adjudicatory proceeding.
8. Government Code section 11415.60 authorizes the Board to delegate the power to formulate and issue decisions by settlement.
9. On October 5, 2010, the Board adopted [Resolution No. 2010-0048](#) delegating authority to the Delta Watermaster.
10. On October 3, 2012, the Board adopted [Resolution No. 2012-0048](#) making specified changes in the delegation of authority to the Delta Watermaster.
11. On September 1, 2015, the Board adopted [Resolution No. 2015-0058](#) making specified changes in the delegation of authority to the Delta Watermaster.
12. Both Resolution No. 2010-0048 and Resolution No. 2012-0048 provide that the delegation will be brought back before the Board within two years for reconsideration of its terms. Resolution No. 2015-0058 provides that the delegation of authority is evergreen, subject to revision upon the Board’s motion or at the request of the Delta Watermaster.

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13. The Delta Watermaster has requested this revision of the delegation of authority and the Board, upon consideration, finds that this revision is appropriate for the orderly administration of water use within the Delta.

THEREFORE, BE IT RESOLVED THAT:

1. The Board delegates to the Delta Watermaster the following duties related to water diversion within the Delta and the monitoring and enforcement of Board orders and license and permit terms and conditions that apply to conditions in the Delta, as defined in Water Code section 85058 (which includes the Sacramento-San Joaquin Delta as defined in Water Code section 12220 and the Suisun Marsh as defined in Public Resources Code section 29101):
 - 1.1 Require monitoring and reporting by holders of Board-issued water right permits or licenses.
 - 1.2 Issue approvals delegated to an officer or employee of the Board by the terms of water right permits or licenses.
 - 1.3 Require monitoring and reporting by persons filing statements of water diversion and use pursuant to Water Code sections 5100-5107.
 - 1.4 Act on petitions or requests to approve or renew temporary permits pursuant to Chapter 6.5 (commencing with section 1425) or temporary urgency changes pursuant to chapter 6.6 (commencing with section 1435) of Part 2 of Division 2 of the Water Code. If no objections to an application for a temporary permit or a petition for a temporary urgency change are received, this authority may be re-delegated to the Deputy Director for Water Rights or appropriate staff within the Division of Water Rights. This delegation includes the authority to:
 - 1.4.1 Hold a hearing on any applications, or petition or request for renewal made pursuant to Chapter 6.5 or 6.6.
 - 1.4.2 Make the findings required by Chapter 6.5 or 6.6 as conditions precedent to the issuance or renewal of a temporary permit or temporary change order.
 - 1.4.3 Make any findings required by CEQA as conditions precedent to the issuance or renewal of a temporary change order.
 - 1.5 At the pre-adjudicative stage, conduct informal fact-finding or informal investigatory hearings regarding alleged unlawful diversions of water, violations of water right permits or licenses, violations involving statements of water diversion and use, or waste and unreasonable use.
 - 1.6 Issue notices of proposed cease and desist orders, and, when a hearing has not been timely requested, issue cease and desist orders in accordance with Water Code section 1831 et seq.

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- 1.7 Issue proposed administrative civil liability complaints, and, when a hearing has not been requested, issue an order imposing administrative civil liability in accordance with Water Code section 1055 et seq.
- 1.8 Issue a notice of proposed cancellation of an application pursuant to California Code of Regulations, title 23, section 845, a notice of proposed revocation of a permit pursuant to Water Code section 1410 et seq., or a notice of proposed revocation of a license pursuant to Water Code section 1675 et. seq.
- 1.9 Prepare and sign orders canceling or revoking an application, petition, permit, or license to appropriate water under any of the following circumstances:
 - 1.9.1 When requested by the applicant, petitioner, permittee, or licensee.
 - 1.9.2 When an applicant or petitioner fails to timely provide information in accordance with Water Code sections 1276, 1335, 1701.4, or 1703.6, and does not show good cause for additional time to submit the requested information under Water Code section 1276 or 1701.4.
 - 1.9.3 When the application or petition is defective or incomplete and has not been perfected within the time allowed for that purpose, and no request for extension of time is filed.
 - 1.9.4 When the applicant or petitioner fails to submit complete or adequate information in accordance with Government Code section 65956.
 - 1.9.5 When fees have not been paid within the time required by law.
 - 1.9.6 When the applicant or petitioner fails to file an affidavit of posting or publication of notice as required by law.
 - 1.9.7 When an application is conditionally approved and the applicant fails to comply with the conditions or to inform the State Water Board that it has complied, within a reasonable time or the time provided pursuant to the California Code of Regulations, title 23, section 845, except when the applicant requests a hearing after notice of the proposed cancellation.
 - 1.9.8 When a permit is issued subject to continuing compliance with one or more specified conditions and the permittee fails to certify compliance with the conditions, or it is discovered that the permittee is not complying with a specified condition, pursuant to California Code of Regulations, title 23, section 845, except when the permittee requests a hearing after notice of proposed revocation.
 - 1.9.10 After notice of proposed revocation pursuant to Water Code section 1410 or 1675 has been sent to the permittee or licensee and no request for hearing has been received.
 - 1.9.11 When the stream system has been declared fully appropriated in accordance with Water Code section 1206, subdivision (a), [Board Order WR 98-08](#), and any orders that supersede or modify Order WR 98-08.

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- 1.10 Act on requests to set aside revocation of a permit or license, in accordance with Water Code section 1410.2 or 1675.2.
- 1.11 Convene settlement conferences up until the time a formal adjudication has commenced by the noticing of a hearing.
- 1.12 Formulate and issue decisions by settlement under Government Code section 11415.60 in matters raised by investigations or complaints, or where notices of proposed cease and desist orders or administrative civil liability or revocation have been issued but a hearing has not been noticed.
- 1.13 Request the Attorney General to institute appropriate proceedings in the superior court in accordance with Water Code section 1052 (unlawful diversions) or Water Code section 1845 (violation of cease and desist orders).
- 1.14 The Delta Watermaster may re-delegate any authority conveyed within resolved paragraph 1 and its subparagraphs to the Deputy Director for Water Rights or appropriate staff within the Division of Water Rights.
2. Adjudicative orders and decisions issued by the Delta Watermaster, including but not limited to decisions by settlement, are subject to reconsideration by the Board pursuant to Water Code section 1122 et seq.
3. The enumeration of delegated authorities in this resolution shall not be interpreted as revoking authorities already delegated, except as specified below. This resolution augments [Resolution No. 2012-0029](#), Delegation of Authority to State Water Resources Control Board Members Individually and to the Deputy Director for Water Rights, and supersedes it only to the extent of any inconsistency. Specifically, the delegation to the Deputy Director to issue notices of proposed cease and desist orders and administrative civil liability complaints and revocations is revoked as applied to diversions in the Delta and enforcement of Board orders and license and permit terms and conditions that apply to conditions in the Delta, except to the extent the Delta Watermaster expressly authorizes the Deputy Director for Water Rights or appropriate staff within the Division of Water Rights to proceed.
4. This resolution supersedes Resolution No. 2015-0058.
5. This resolution will remain in effect until withdrawn or superseded by action of the Board.

CERTIFICATION

The undersigned, Clerk to the Board, does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on August 7, 2018.

Jeanine Townsend
Clerk to the Board